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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,194	12/20/2001	Bryan M. Elwood	87289.1741	5973

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EXAMINER	
BHAT, ADITYA S	
ART UNIT	**PAPER NUMBER**
2863	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/01/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/022,194	ELWOOD ET AL.	
	Examiner	Art Unit	
	Aditya S. Bhat	2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 December 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2-16,18-30 and 32-47* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2-16,18-30 and 32-47* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *03 August 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Withdrawal of Finality

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 2,18 and 32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the unique identifier is *embedded* with specific manufacturing configuration of equipment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2-16, 18-30, and 32-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kail (USPN 5,959,529). in view of Chiliwnyj et al. (USPN 6,574,679).

With regards to claim 2, Kail (USPN 5,959,529) teaches a device that provides diagnostic and control capability for equipment from a remote location comprising:

an apparatus detached from the equipment comprising a display device, (34,54; See figure 1) an input device, (28;figure 1) software (82;figure 3) executed by the apparatus and a communications device; (16, 58;See figure 1) and

a hardware controller (22;figure 1) attached to the equipment to enable monitoring of the equipment by the apparatus through the communications device, wherein a unique identifier is stored on the controller, (Col.6, lines 20-21) the unique identifier is assembled using an array of data (Col. 3, lines 10-14)

With regards to claim 3, Kail (USPN 5,959,529) teaches the controller is queried by the apparatus. (Col. 8, lines 58-63)

With regards to claim 4, Kail (USPN 5,959,529) teaches the controller transmits data to the apparatus without being queried. (Col. 8, lines 58-67)

With regards to claim 5, Kail (USPN 5,959,529) teaches the data being transmitted is an indication detected by the controller of an equipment problem. (Col. 3, lines 22-32)

With regards to claim 6, Kail (USPN 5,959,529) teaches the controller transmits data in response to the query. (Col. 8, lines 58-63)

With regards to claim 7, Kail (USPN 5,959,529) teaches the controller is instructed by the software code to gather specific data about the equipment and transmitted to the to the apparatus. (Col. 2, lines 63-65)

With regards to claim 8, Kail (USPN 5,959,529) teaches the data is compiled by the software in a user-preferred manner. (Col. 2, lines 63-67) (Col. 2lines 46-49)

With regards to claim 9, Kail (USPN 5,959,529) teaches the data is collected for a specific period of time after which time the data is lost and a new data collection period begins. (Col. 6, lines 60-63)

With regards to claim 10, Kail (USPN 5,959,529) teaches the data is available for review by a user on the apparatus during the specific period of time. (Col. 7, lines 16-18)

With regards to claim 11, Kail (USPN 5,959,529) teaches the software code is programmed with acceptable operational limits for the equipment associated with the identifier. (Col. 2, lines 63-67)

With regards to claim 12, Kail (USPN 5,959,529) teaches the limits are compared to the data retrieved from said controller, if results are within the acceptable operational limits the data no further action is taken, if results are not within acceptable said limits then apparatus carries out a predefined task. (Col. 3, lines 27-30)

With regards to claim 13, Kail (USPN 5,959,529) teaches the predetermined task is alerting the user as to the condition. (Col.3, lines 30-43)

With regards to claim 14, Kail (USPN 5,959,529) teaches the predetermined task is alerting a technician as to the performance of the equipment (Col.3, lines 40-43)

With regards to claim 15, Kail (USPN 5,959,529) teaches the predetermined task is transmitting data to the equipment to adjust certain operational features of the equipment. (364;figure 6)

With regards to claim 16, Kail (USPN 5,959,529) teaches the data is recorded and stored and available for review by the user. (Col. 5,lines 1-6)

With regards to claim 18, Kail (USPN 5,959,529) teaches a method that provides remote diagnostic and control capability for equipment comprising:

monitoring the equipment through a hardware controller attached the equipment (Col. 4,lines 19-23) with a remote apparatus comprised of an input device, (28;figure 1) display device, (34,54; See figure 1) a communications device(16, 58;See figure 1) and software code executed by the apparatus. (82;figure 3, Col. 7, lines 64-65)

storing a unique identifier on the controller that is attached to the equipment, (Col.6, lines 20-21) the unique identifier is assembled using an array of data (Col. 3, lines 10-14)

With regards to claim 19, Kail (USPN 5,959,529) teaches selecting with the software code specific data collection wherein the software code records the data of pre-selected features of the equipment. (Col.2, lines 63-67)

With regards to claim 20, Kail (USPN 5,959,529) teaches querying the controller with request for data, wherein the data is transmitted to the apparatus.(Col. 2-3, lines 67 & 1-4)

With regards to claim 21, Kail (USPN 5,959,529) teaches the step of responding and transmitting a response to the query. (Col.8, lines 58-64)

With regards to claim 22, Kail (USPN 5,959,529) teaches the step of compiling of the data by the apparatus and stored for a period of time. (Col. 8, lines 58-64)

With regards to claim 23, Kail (USPN 5,959,529) teaches data collection is gathered for a fixed period of time after which the data is removed and a new data period is commenced. (Col. 6, lines 60-63)

With regards to claim 24, Kail (USPN 5,959,529) teaches the data is recorded and stored and available for review. (Col. 5, lines 2-3)

With regards to claim 25, Kail (USPN 5,959,529) teaches the step of comparing the data received from the controller with pre-selected limits, if the results of the comparison are outside of the acceptable limits then the apparatus proceeds with a predefined action; if the results of the comparison are with the acceptable limits then no further action is taken. (Col.2, lines 62-67)

With regards to claim 32, Kail (USPN 5,959,529) teaches a device that provides remote diagnostic and control capability for equipment comprising:

remote means for monitoring the equipment the means for monitoring is an apparatus that is comprised of an input device, (28;figure 1) display device(34,54; See figure 1), a communications device (16, 58;See figure 1) and software coded executed by the apparatus (82;figure 3, Col. 7, lines 64-65) and

means for determining the status of the equipment through the means for monitoring, wherein the means for determining is a hardware device and is attached to the equipment and contains a unique identifier, (Col.4, lines 19-22) the unique identifier (Col. 3, lines 10-14)

With regards to claim 33, Kail (USPN 5,959,529) teaches a means for determining is a hardware controller. (22; Col.4, lines 19-22)

With regards to claim 34, Kail (USPN 5,959,529) teaches means for selecting with software code specific data collection wherein the software code records the data of pre-selected features of the equipment. (Col.2 lines 63-67) (Col.3, lines 46-49)

With regards to claim 35, Kail (USPN 5,959,529) teaches means for compiling the data from the equipment by querying the controller with request for data. (Col. 8, lines 58-64)

With regards to claim 36, Kail (USPN 5,959,529) teaches data collection is gathered for a fixed period of time after which the data is removed and a new data period is commenced. (Col. 6, lines 55-59)

With regards to claim 37, Kail (USPN 5,959,529) teaches the data is recorded and stored and available for review. (Col. 5, lines 2-3)

With regards to claim 38, Kail (USPN 5,959,529) teaches comparing the data received from the controller with pre-selected limits, if the results of the comparison are outside of the acceptable limits then the apparatus proceeds with a predefined action, if the results of the comparison are with the acceptable limits then no further action is taken. (Col.6, lines 60-64)

With regards to claim 26-30 and 39-43, Kail (USPN 5,959,529) shows various means of generating an alert (Col. 4, lines 48-53)

With regards to claim 45, Chiliwnyj et al. (USPN 6,574,679) teaches the equipment comprises information on operating limits (col. 2, lines 62-63)

Kail does not appear to explicitly disclose that the unique identifier is embedded with specific manufacturing configuration of the equipment are identified.

Chiliwnyj et al. (USPN 6,574,679) discloses a unique identifier (col. 2, line 59) is embedded with specific manufacturing configuration of the equipment are identified. (Col. 2, lines 62-67)

It would've been obvious to one skilled in the art at the time of the invention to modify the Kail invention to include the embedded specific manufacturing configurations taught by Chiliwnyj et al. in order to provide self-identification for a newly installed analog hardware assembly to a data processing system. (col. 2, lines 39-41)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 44-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kail (USPN 5,959,529) in view of Hayward (USPUB 2003/0023703)

With regards to claims 44-47, Kail (USPN 5,959,529) does not specifically disclose specific aspects of the equipment comprise a manufacturer, operating limits, serial number and feature of the equipment. Col.3, lines 11-13 broadly discloses the claim limitations of the above-mentioned claims.

Hayward (USPUB 2003/0023703) discloses specific aspects of the equipment comprises a manufacturer, serial number) and feature of the equipment. (page 2, paragraph 0025

It would be obvious to one skilled in the art at the time of the invention to modify the Kail invention to include the specific unique identifiers taught by Hayward (USPUB 2003/0023703) in order enhance user support. (page 1, paragraph 0009)

Response to Arguments

Applicant's arguments with respect to claims 2-16, 18-30, and 32-47 have been considered but are moot in view of the new ground(s) of rejection.

With regards to the 112 rejection the specification does not clearly define the term embedded. The Merriam Webster online dictionary definition of embedded is to enclose closely in or as if in a matrix. From the written description it is not clear whether

or not the unique identifier is within the equipment or whether it is merely on the equipment (a label on the side of a computer). Therefore the rejection has been maintained.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Linberg (USPN 6,442,433) teaches an apparatus and method for remote troubleshooting maintenance and upgrade of implantable device systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aditya S Bhat whose telephone number is 571-272-2270. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 571-272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aditya Bhat
January 22, 2007

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